

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3554 OF 2006

Smt.Ujwala P. Gadakh & Anr. ....Petitioners  
V/s.  
Smt.Vatsalaba K. Gadakh & Ors. ....Respondents

Mr.M.S. Karnik for the Petitioners.

Mr.Kishore Patil i/b Mr.P.N. Joshi for Respondent  
No.1.

**CORAM : R.M. SAVANT, J.**  
**DATED : 7TH JUNE, 2007.**

**P.C. :**

1. This Petition filed under Article 227 of the Constitution of India, takes exception to the order dated 17.4.2006 passed by the Civil Judge (S.D.), Nashik by which order the application filed by the Original Plaintiffs at Exhibit 123 came to be rejected. The said amendment application is rejected on the ground that the original Plaintiffs have filed the suit on the ground that the partition accepted between the parties has not been acted upon. Whereas by the proposed amendment, the Petitioners seek to challenge the partition deed and contended that, it was executed by the Plaintiffs under undue influence. The Court has come to the conclusion that such a contradictory stand cannot be permitted in so far as

an amendment application is concerned, if the amendment is allowed it will change the nature of the suit, which is impermissible.

2. I do not find any illegality or infirmity with the reasoning of the trial Court whilst rejecting the application for amendment. No case is therefore made out for interference by this Court under Article 227 of the Constitution of India.

3. The Petition is therefore dismissed.

(R.M. SAVANT, J.)